

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

XR COMMUNICATIONS, LLC, dba  
VIVATO TECHNOLOGIES,

Plaintiff,

v.

DELL TECHNOLOGIES INC.,  
DELL INC.

Defendants.

Case No. 1:22-cv-00861-RP

**JOINT STIPULATION REGARDING SPECIAL MASTER AND NOTICE REGARDING  
PROPOSED CASE SCHEDULE**

Plaintiff XR Communications, LLC dba Vivato Technologies (“Plaintiff,” “XR,” or “Vivato”) and Defendants Dell Technologies Inc. and Dell Inc. (“Defendants” or “Dell”) jointly request and stipulate to the appointment of David Keyzer ([www.keyzerlaw.com](http://www.keyzerlaw.com)) as Special Master, whose duties shall include conducting a claim construction hearing, issuance of a report and recommendation on claim construction, and advising the Court on any other technical matters as the Court deems appropriate, with the costs of the Special Master to be shared equally between each side. Mr. Keyzer has confirmed he is available to serve in this matter.

Mr. Keyzer’s prior experience as a special master is set forth at [www.keyzerlaw.com](http://www.keyzerlaw.com). Mr. Keyzer was appointed as Special Master in *XR Communications LLC dba Vivato Technologies v. D-Link Systems, Inc. et al.*, No. 8:17-cv-596-DOC-JDEx (C.D. Cal.). which dealt with a patent related to the patent asserted in this action.

Mr. Keyzer is available to conduct a *Markman* Hearing on January 25, 2023. In the event

that the Court denies Defendants' pending motion to stay, the Parties respectfully request that the Court enter an order appointing Mr. Keyzer and scheduling the Markman Hearing for January 25, 2023. Plaintiff respectfully requests that the Court enter the order appointing Mr. Keyzer and scheduling the Markman Hearing, because it is inevitable that the Court will need to construe the '235 Patent following the PTAB's decision denying institution of IPR2022-01155, such that several asserted claims are not subject to any IPR.

The Parties additionally notify the Court of their respective proposals for a case schedule below in the event that the Court denies Defendants' pending motion to stay. Dell believes, however, that the Markman hearing and other case events should not proceed until its motion to stay is adjudicated. Plaintiff has based its proposed schedule on the schedule that was in place prior to transfer, with modifications to allow for the delay in the Markman Hearing from the originally scheduled dates of July 1, 2022 and August 26, 2022, respectively. Dell has based its proposed schedule upon this Court's recent scheduling order in *Katana Silicon Techs. LLC v. GlobalFoundries Inc.*, Case No. AU:22-CV-00852-RP, ECF No. 39 (W.D. Tex. Sept. 27, 2022). Dell notes that it will be unable to accommodate Plaintiff's proposed trial date in any event as Dell's counsel Mike Newton and Brady Cox currently have scheduled trials that were previously set in three unrelated matters beginning on October 16, November 6, and December 11, 2023, respectively.

Event	Plaintiff's Proposed Date	Defendants' Proposed Date
Markman Hearing	At Mr. Keyzer's convenience on or after January 25, 2023	At Mr. Keyzer's convenience on or after January 25, 2023
Final Infringement & Invalidity Contentions	April 5, 2023 (10 weeks after Markman)	May 24, 2023 (4 months after Markman)
Close of fact discovery	April 26, 2023 (13 weeks after Markman)	June 21, 2023 (5 months after Markman)
Exchange of opening expert reports	May 24, 2023 (4 weeks after close of fact discovery)	July 21, 2023 (6 months after Markman)

Exchange of rebuttal expert reports	June 21, 2023 (4 weeks after opening expert reports)	August 24, 2023 (7 months after Markman)
Close of expert discovery	July 19, 2023 (4 weeks after rebuttal reports)	October 25, 2023 (9 months after Markman)
Dispositive/Daubert motions deadline	August 16, 2023	November 20, 2023 (10 months after Markman)
Final Pretrial Conference	October 11, 2023	At the Court's convenience on or after February 25, 2024 (13 months after Markman)
Jury trial	November 1, 2023	At the Court's convenience on or after March 25, 2024 (14 months after Markman)

Should the Court issue an order adopting either schedule, the Parties are prepared to finalize an Agreed Scheduling Order with all other relevant dates for the Court's entry.

Date: Tuesday, January 10, 2023

Respectfully submitted,

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